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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,247	03/19/2001	Bradley S. Hoyl	M-9698 US	7809
33031	7590	03/15/2006	EXAMINER	
CAMPBELL STEPHENSON ASCOLESE, LLP 4807 SPICEWOOD SPRINGS RD. BLDG. 4, SUITE 201 AUSTIN, TX 78759			WOOD, KIMBERLY T	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 03/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/812,247

Applicant(s)

HOYL ET AL.

Examiner

Kimberly T. Wood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11-16, 20-23, 31-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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This is an office action for serial number 09/81247, entitled Fiber Optic Cabling Management Using Hook and Loop Fabric.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 11-16, 20-23, and 31-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lutz 5,666,265, as discussed above, in view of Delk et al. (Delk 312) 5,292,312 in further Delk et al. (Delk 037) 5,300,037. Lutz discloses a rigid frame (160), a substrate (281) having a first surface having a first plurality of fasteners (male velcro) and a second surface (column 8, lines 46, adhesive), a cable fastener (282) completely detachable from the substrate. Lutz teaches the method of supporting one or more cables (507) with a cable fastener, releasably engaging the cable fastener to a substrate, providing a ridge frame. Lutz discloses the claimed invention

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except that instead of fiber, electrical, or metal cables they show power cables. Therefore, because these two cables were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute power cables for fiber, metal, or electrical cables. The suggestion for such a modification is found in the applicant's own specification on page 9, lines 23ff). Lutz discloses all of the limitations of the claimed invention except for the hooks being mushroom-shaped, pine-tree-shaped. It would have been obvious to one having ordinary skill in the art at the time the invention was made to substituted the mushrooms or pine-tree shaped stems, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice by the applicant's own admission on page 7, lines 8ff, that the exact type of releasable "VELCRO" mechanism is not critical to the invention (see *Harrori* 5,671,511). *In re Leshin*, 125 USPQ 416. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the cable fastener containing loops and the substrate containing hooks, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ

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167. Lutz discloses all of the limitations of the claimed invention except for the cable fastener having a head having a width greater than the predetermined width and defining an opening. Delk teaches that it is known to have a substrate (20) having a first surface having a plurality of first fasteners (23) and a cable fastener/tie wrap (30) having a head portion having opening/means for encircling (37) being detachable from the substrate having a second surface having a second plurality of fasteners (column 6, lines 54ff). It would have been obvious to one having ordinary skill in the art to have modified Lutz to have substituted the cable fastener type as taught by Delk since the cable fasteners are art-recognized equivalents at the time the invention both being used as means of holding cables/tubular members to substrates. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the tie wrap containing loops and the substrate containing hooks, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167. Lutz in view of Delk 312 discloses all of the limitations of the claimed invention except for one of the plurality of hook and loop mechanisms that covers at least all of one side of the cable fastener and the head portion having a size substantially

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similar to a size of the variable width opening. Delk discloses a substrate (20) having a first surface of a plurality of fasteners of loop material and adhesive on the second surface opposite the first surface; a cable fastener comprising an opening (37), a an elongated body (34), a head portion (33) having a size substantially similar to a size of the opening. It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Lutz in view of Delk 312 to have modified the cable fastener of Delk 312 for the purpose of providing a cable fastener to hold a wider variety of cable sizes and shapes.

Claims 1-6, 11-16, 20-23, and 31-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lutz 5,666,265, as discussed above, in view of Delk et al. (Delk 037) 5,300,037. Lutz discloses all of the limitations of the claimed invention except for the cable fastener having a head having a width greater than the predetermined width and defining an opening. Delk teaches that it is known to have a substrate (20) having a first surface having a plurality of first fasteners (23) and a cable fastener/tie wrap (30) having a head portion (33) having opening/means for encircling (37) having a second surface having a second plurality of fasteners (column 7, lines 44ff) covering at least all of one side of the cable fastener and the head

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portion having a size substantially similar to a size of the variable width opening, and an elongated body (34). It would have been obvious to one having ordinary skill in the art to have modified Lutz to have substituted the cable fastener type as taught by Delk since the cable fasteners are art-recognized equivalents at the time the invention both being used as means of holding cables/tubular members to substrates. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the tie wrap containing loops and the substrate containing hooks, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

Response to Arguments

Applicant's arguments with respect to some claims have been considered but are moot in view of the new ground(s) of rejection.

In regards to the arguments that Delk cable fastener will not properly fit the surface area in Lutz the examiner would like to point out that when modifying the reference of Lutz to include the limitations of the cable strap of Delk the examiner means to substitute the cable strap of Delk being of the same

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size of the cable strap of Lutz. The modification will result in a cable strap of a size to work with the substrate of Lutz including a head having an variable width opening and an elongated body wherein one side of the cable strap is of one of a plurality of fasteners of hook or loop material. The result of such a modification would allow for the strap to work in cooperation with the substrate to attach cables/wires to be positioned along any area of the substrate.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both of the references (Lutz and Delk 312) are within the art of holding cables/tube/wires on a substrate using Velcro type fasteners. The suggestion or motivation to combine Lutz with Delk is found within claim 11 of Lutz which clearly teaches of a first fastening member (281) having a first side and a second side wherein there is a

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covering of a first sex of fastening material (hook or loop) on the first side and adhesive on the second side; a second strip of fastening material (282) having a first side and a second side wherein there is a covering of a second sex of fastening material (loop or hook) on the first side of the second strip, the first side of the second strip (282) being releasably engageable with the first sex of fastening material on the first fastening strip(281). This claim provides clear motivation to substitute a cable fastener such as that of Delk as long as the cable fastener meets the limitations of the claim as presented and does not destroy the function of the invention.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened

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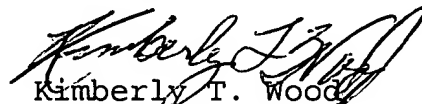
statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly T. Wood whose telephone number is 571-272-6826. The examiner can normally be reached on Monday-Thursday 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on 571-272-6815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Kimberly T. Wood
Primary Examiner
Art Unit 3632

March 7, 2006